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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,921	06/06/2000	WOLFGANG KAUFHOLD	MO-5726/LEA	9638

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EXAMINER
SERGENT, RABON A

ART UNIT	PAPER NUMBER
1711	12

DATE MAILED: 11/29/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

T-D-12

Office Action Summary

Application No.	Applicant(s)
09/555,921	Kaufhold et al.
Examiner	**Art Unit**
Rabon Sergent	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jul 30, 2001*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-5, 7, and 9* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-5, 7, and 9* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
18) ☐ Interview Summary (PTO-413) Paper No(s). _____
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 3-5, 7, and 9 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Kirchmeyer et al. ('252) or Ullrich et al. ('679).

Patentees disclose the continuous production of polyurethane elastomers, wherein the reactant components are rapidly mixed prior to reaction or at an early stage of the reaction, so as to obtain more uniform mixing and reaction. Kirchmeyer et al. disclose the use of a double screw extruder and Ullrich et al. disclose the use of static mixers. Though patentees are silent regarding the temperatures of the reaction constituents, prior to their entry into the mixer, the position is taken that one would have immediately envisaged, from the prior art, the removal and use from storage of the reactant species. Taken from storage, these species would have had the same temperature. It is well established that reactants are stored under ambient conditions whenever possible to avoid increased production cost or unnecessary use of resources. Applicants' claims merely require the temperature condition to be satisfied prior to the reactants entering the reactor, and this condition may be satisfied while the reactants are being stored or removed from storage.

3. Claims 1-5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchmeyer et al. ('252) or Ullrich et al. ('679), each in view of Rausch et al. ('964).

The primary references disclose the continuous production of polyurethane elastomers, wherein the reactant components are rapidly mixed prior to reaction or at an early stage of the reaction, so as to obtain more uniform mixing and reaction. Kirchmeyer et al. disclose the use of a double screw extruder and Ullrich et al. disclose the use of static mixers.

4. While neither of the primary references disclose the use of reactant streams having comparable temperatures, the use of comparable temperatures for reactant streams used for the continuous production of thermoplastic polyurethanes was a known and conventional practice at

the time of invention. The examples of Rausch et al. clearly disclose that the two reactant streams were heated to the same temperature of 140^{0}F (60^{0}C).

5. Therefore, in accordance with the goals, of the primary references, of obtaining more uniform and homogeneous mixtures, the position is taken that one would have been motivated to introduce the streams for mixing at comparable temperatures (as was done in the secondary reference), so as to arrive at the instant invention.

6. The examiner has considered applicants' response; however; the position is maintained that it would have been obvious to utilize reactant streams at equivalent temperatures for the aforementioned reasons. The teachings of the secondary reference concerning the temperatures of reactant feed streams is simply considered to be representative of common processing techniques within the art. The examiner has again considered the examples of the application; however, the examples are not considered to be commensurate in scope with the claimed species or conditions.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) -308-2982.

Sergent/LR

October 22, 2001

RABON SERGENT
PRIMARY EXAMINER